

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

04-cv-12257-B-3

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VERMONT MUTUAL INSURANCE  
COMPANY, as Subrogee of  
Robert and Nancy McNeil, and  
ROBERT and NANCY MCNEIL,  
Plaintiff,

MAGISTRATE JUDGE Boulet

v.

C.A. No.:

HAMILTON BEACH PROCTOR-  
SILEX, INC.,  
Defendants.

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RECEIPT # 54595  
AMOUNT \$ 150  
SUMMONS ISSUED yes  
LOCAL RULE 4.1     
WAIVER FORM     
MCF ISSUED     
BY DPTY. CLK. F.C.H.  
DATE 10/26/04

NOTICE OF REMOVAL

To: Civil Clerk's Office, United States District Court  
District of Massachusetts, U.S. Courthouse  
Boston, MA 02110

Civil Clerk, Middlesex County Superior Courthouse, 40 Thorndike Street,  
Cambridge, MA 02141

R. Bart Warner, Douglas F. Hartman, Monahan & Associates, P.C., 113  
Union Wharf East, Boston, MA 02109

Defendant, Hamilton Beach Proctor-Silex, Inc. ("Hamilton"), by its  
undersigned attorneys, and pursuant to 28 U.S.C. § 1446, gives notice that it  
hereby removes the above-captioned case presently pending in the Middlesex  
Superior Court, Commonwealth of Massachusetts, which bears Civil Action  
Number 2004-03859-B, to the United States District Court for the District of  
Massachusetts.

Removal is hereby authorized by 28 U.S.C. § 1441 and is based upon the United States District Court's original jurisdiction of the case pursuant to 28 U.S.C. § 1332, because it is a civil action where the parties are citizens of different states and the amount of controversy exceeds \$75,000 exclusive of interest and costs. In support of this Notice, Hamilton states:

A. Background

1. The Plaintiffs' Complaint naming the Defendant was filed in the Middlesex Superior Court, in the Commonwealth of Massachusetts on or about September 29, 2004. Copy of the Plaintiffs' Complaint and Civil Action Cover Sheet in this action are attached to this Notice as Exhibit 1.

2. Counsel for Hamilton accepted service on its behalf on October 20, 2004. Therefore, the time within which the Defendant is required to remove this action to the United States District Court for the District of Massachusetts, pursuant to 28 U.S.C. § 1446, has not expired.

3. The Plaintiffs' Complaint purports to assert claims for negligence and breach of warranty against Hamilton.

B. Diversity of Citizenship

4. Defendant Hamilton is a corporation organized under the laws of Virginia with a principal place of business at 4421 Waterfront Drive, Glen Allen, Virginia (Plaintiffs' Complaint ¶ 5).

5. The Plaintiff, Vermont Mutual Insurance Company (“Vermont Mutual”), is a corporation organized under the laws of Vermont (Plaintiff’s Complaint ¶ 1).

6. The Plaintiff, Robert McNeil, is an individual residing in Medford, Massachusetts (Plaintiff’s Complaint ¶ 2).

7. The Plaintiff, Nancy McNeil, is an individual residing in Medford, Massachusetts (Plaintiff’s Complaint ¶ 3).

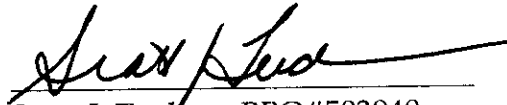
8. There is complete diversity of citizenship between the Plaintiffs and the Defendant in this action.

C. Jurisdictional Amount

9. Although the Plaintiffs’ Complaint does not specify the amount of damages sought by the Plaintiffs in this case, the Civil Action Cover Sheet filed in Middlesex County Superior Court states the Plaintiffs claim a total of \$356,106.92 in alleged damages.

10. Pursuant to 28 U.S.C. § 1446, a copy of this Notice of Removal will be filed with the Clerk of the Superior Court in and for the County of Middlesex, and a copy of this Notice of Removal will be served upon counsel for the Plaintiffs.

Hamilton Beach Proctor-Silex, Inc.,  
By its Attorneys,

A handwritten signature in black ink, appearing to read "Scott J. Tucker", written over a horizontal line.

Scott J. Tucker - BBO#503940  
Tucker, Heifetz & Saltzman, LLP  
Three School Street  
Boston, Massachusetts 02108  
(617) 557-9696

Dated: October 21, 2004.